

UNITED STATES DISTRICT COURT

for the

Northern District of California

FILED

Apr 25 2022

Mark B. Busby
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND

United States of America

v.

ROY MONTOYA,

Case No. 4:22-mj-70515-MAG

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of July 2021-April 2022 in the county of Alameda in the
Northern District of California, the defendant(s) violated:*Code Section*

18 U.S.C. § 922(a)(1)(A)

Offense Description

Unlicensed Dealing and Manufacturing of Firearms

Maximum 10 years imprisonment

Maximum \$250, 000 fine

Maximum 3 years supervised release

\$100 special assessment

Forfeiture

This criminal complaint is based on these facts:

See attached affidavit of Bureau of Alcohol, Tobacco, Firearms and Explosives ("ATF") Special Agent Dillon Phillips.

☒ Continued on the attached sheet.Approved as to form Alexis James
AUSA Alexis James/s/ Dillon Phillips

Complainant's signature

Dillon Phillips, Special Agent, ATF

Printed name and title

Sworn to before me by telephone.

Date: April 25, 2022City and state: Oakland, CaliforniaKandis Westmore
Judge's signature

Hon. Kandis A. Westmore, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Dillon Phillips, a Special Agent with the United States Bureau of Alcohol, Tobacco, Firearms and Explosives, being duly sworn, state:

I. INTRODUCTION**A. Purpose of Affidavit**

1. I submit this affidavit in support of an application under Rule 4 of the Federal Rules of Criminal Procedure for a criminal complaint and arrest warrant authorizing the arrest of **Roy MONTOKA** for one count of Unlicensed Manufacturing and Dealing of Firearms, in violation of 18 U.S.C. § 922(a)(1)(A) between on or about July 2021 and on or about April 2022, in the Northern District of California.

II. AFFIANT BACKGROUND AND SOURCES OF INFORMATION

2. I have been employed as a Special Agent (“SA”) of the Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) since May 2020. I am an investigative or law enforcement officer of the United States, within the meaning of Title 18 United States Code, Section 2510(7), and am empowered by law to conduct investigations of and to make arrests for offenses enumerated in 18 U.S.C. § 2516. I am a graduate of the Federal Law Enforcement Training Center Criminal Investigator Training Program and the ATF National Academy Special Agent Basic Training Course. My duties include the investigation of criminal violations of federal firearms, explosives, and arson laws, as well as those involving violent crime.

3. Prior to being an ATF Special Agent, I was employed as a police officer with the Kansas City, Missouri Police Department from May 2012 to May 2020. During my employment with the Kansas City, Missouri Police Department, I was assigned to the Patrol Bureau as a patrol officer, the Narcotics and Vice Division as an undercover narcotics detective, and to the Patrol Bureau as a tactical response team officer.

4. As an ATF Special Agent, I have conducted and participated in both state and Federal investigations involving the trafficking of firearms and distribution of controlled substances. I have investigated and assisted in the prosecution of criminal street gangs engaged in illegal narcotics and

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1 firearms trafficking. During these investigations, I have become familiar with various investigative
2 techniques, including electronic surveillance, the use of undercover agents and informants, and
3 controlled purchases of firearms and narcotics from suspects. I have participated in investigations as an
4 undercover agent purchasing firearms and narcotics from suspects. I have also participated in physical
5 surveillance operations and the execution of state and federal arrest warrants and search warrants,
6 resulting in state and federal prosecution of defendants. In addition to utilizing the aforementioned
7 investigative techniques, I have been required during these investigations to analyze information
8 resulting from traditional record searches, pen registers and trap-and-trace devices, cell phone cell-site
9 data, precision cell phone location data, utility records, and telephone toll and subscriber records. My
10 work with informants and cooperators has involved, among other things, monitoring meetings and
11 recorded conversations, and generally evaluating the reliability and truthfulness of an
12 informant/cooperator.

13 5. Because of my training and experience, I have become familiar with the manner in which
14 illegal firearm and drug traffickers smuggle, transport, store, conceal and distribute firearms and drugs,
15 as well, as how they collect and launder proceeds related to such activities. I am also familiar with the
16 manner in which these individuals use telephones, coded communications, false or fictitious identities,
17 and other means to facilitate illegal activities and thwart law enforcement investigations. I have also
18 consulted and discussed the investigations with other law enforcement officers and agents who are
19 experienced in these types of investigations.

20 6. Because this affidavit is being submitted for the limited purpose of securing a criminal
21 complaint and arrest warrant for the individual named herein, I have not included every fact known to
22 me concerning this investigation. Instead, I have set forth only those facts sufficient to establish
23 probable cause that a violation of the federal law identified above have occurred.

24 7. I have based my statements in this affidavit on my training and experience, personal
25 knowledge of the facts and circumstances obtained through my participation in this investigation,
26 information provided by other agents and/or law enforcement officers, information gathered through law
27 enforcement surveillance efforts, information provided by photographic and/or video-recorded evidence,
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1 information obtained through search warrants of social media or other accounts, and information
2 provided by records and databases, as well as other sources. I believe these sources to be reliable.

3 8. Where I refer to conversations and events, I often refer to them in substance and in
4 relevant part rather than in their entirety or verbatim, unless otherwise noted. This affidavit also reflects
5 my current understanding of facts relating to this investigation, but my understanding may change in the
6 future as the investigation proceeds. Where statements made by other individuals are referenced in this
7 Affidavit, such statements are described in sum and substance and in relevant parts only. Similarly,
8 where information contained in reports and other documents or records are referenced in this Affidavit,
9 such information is also described in sum and substance and in relevant part only.

10 **III. APPLICABLE LAW**

11 9. Title 18 U.S.C. § 922(a)(1)(A) prohibits any person from engaging in the business of
12 importing, manufacturing, or dealing in firearms, or in the course of such business to ship, transport, or
13 receive any firearm in interstate or foreign commerce without a license. The elements of a section
14 922(a)(1)(A) offense are:

- 15 a. The defendant was willfully engaged in the business of dealing in, importing, or
16 manufacturing firearms; and
- 17 b. The defendant did not then have a license as a firearms dealer, importer, or
18 manufacturer.

19 **IV. FACTS ESTABLISHING PROBABLE CAUSE**

20 10. The Bureau of Alcohol, Tobacco, Firearms, and Explosives (“ATF”), California Highway
21 Patrol (CHP), and Homeland Security Investigations (HSI) is investigating the firearms trafficking
22 activities of a group of individuals believed to trafficking firearms, including machineguns, in the
23 Northern District of California. This investigation has identified Roy MONTROYA to be involved in this
24 group.

25 **A. Background Investigation leading to MONTROYA**

26 11. In January of 2022, Investigator Eric Kleinschmidt, with CHP, advised me that he had
27 been monitoring an Instagram account called “COUPESGOINGCRAZY” since on or about July 29,
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2021. Inv. Kleinschmidt initially began monitoring the Instagram page for its public display of involvement with street racing and “side show” activity. Inv. Kleinschmidt began to also observe the public display of numerous firearms for sale on the Instagram page.

12. On August 25, 2021, Inv. Kleinschmidt authored an Alameda County search warrant for the production of records from the Instagram account “COUPESGOINGCRAZY” believed to be utilized by a Moises De Jesus Gomez. The Honorable Judge Dennis J. McLaughlin signed the search warrant and it was submitted to Facebook via their online Law Enforcement portal.

13. On September 25, 2021, law enforcement received the data download for Gomez’ Instagram account. On or about September 29, 2021, Inv. Kleinschmidt began reviewing the data contained in the download and observed the account name used for the Instagram account was Familia Gomez / Del toro Guzman. It was further observed that the account was registered to an email address and phone number belonging to Moises De Jesus Gomez.

14. A review of Gomez’ “friends list,” showed an Instagram account user with the name “HAZELPEWPEW.” The name listed with this account is “Roy Montoya Avila” (MONTTOYA). A direct message conversation between Gomez and MONTTOYA on July 24, 2021, was located. The first two messages of the conversation were in Spanish, which translated to English as: Gomez asking MONTTOYA if he knew anyone who could get Glockes because they were asking for them on the other side. MONTTOYA responded that a bunch of people had been asking him. Based on my training and experience, I know that “el otro lado” or “the other side” is common Spanish street vernacular for Mexico.

15. MONTTOYA stated, “But they want me to cross it.” MONTTOYA then stated that over there they are double the price and “I got 10 AR’s to sale.” Gomez then commented that they must be good ones, no jamming, because they cannot jam over there. From my training and experience, I understood this conversation to be the discussion of trafficking firearms to Mexico. The conversation continued and eventually MONTTOYA shared photographs of AR-15 style pistols and an M-16 style rifle with an affixed grenade launcher. Inv. Kleinschmidt recognized these photographs as matching various

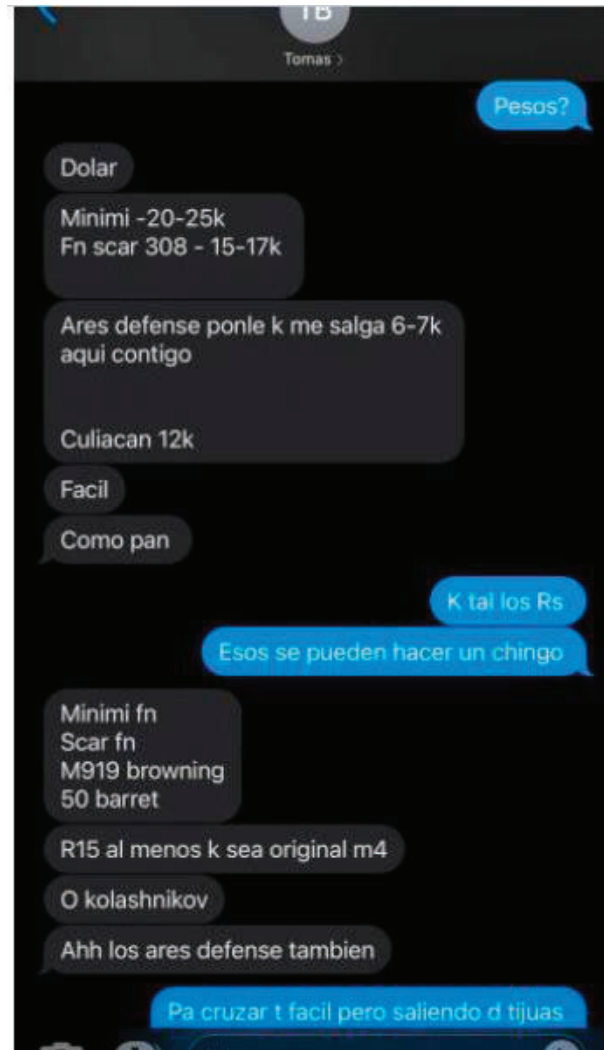
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1 photographs posted by Gomez on his Instagram account. The following are photographs sent by
2 MONTOYA to Gomez:



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16. The next messages from MONTOYA were, “I already got like 5 sold tho” and “out of 11.” Gomez asked, “how much are the long ones” (which I know to be referring to rifles), and “how much do you sell them for over there.” Additionally, the following photograph was sent from MONTOYA of a text message conversation with a contact named “Tomas”:



17. In this text, MONTOYA asks if Tomas is talking about “Pesos” and Tomas responds “Dolar.” Tomas then appears to list prices along with what I recognize as firearm manufacturers/models to include M919 Browning Machine gun, 50 Caliber Barret, FN scar .308, AK-47 Kalashnikov, and other weapons. The conversation then continues with the following:

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1
2 MONTROYA: they was selling me a long AR for 3000

3 MONTROYA: last time I went

4 MONTROYA: a box of 9 over there is 100 dollars

5 Gomez: over there the sale is higher

6 On 07/27/2021, GOMEZ shares a picture of ten (10) AR-15 type firearms on a bed, with a caption
7 reading "no matter how much I want"

8 Gomez: 1100 each one

9 A video call occurs between the two parties

10 MONTROYA: give it to me

11 MONTROYA: after work

12 Gomez: I can go pick her up. Then ill bring you the money, its because my cousin wants it. I
13 don't have cash but he has it.

14 MONTROYA: its good

15 Gomez: about what time

16 MONTROYA: ill let you know I get home

17 MONTROYA: Im in Sebastopol right now

18 Gomez: ok

19 On 07/28/2021:

20 Gomez: you back

21 MONTROYA: yeah im home

22 Gomez: can I go in

23 Gomez: im in 105 you stay by the car wash or on Sem?

24 MONTROYA: 1606 Seminary

25 MONTROYA: im going to hit chonks right now

26 MONTROYA: see if I got there

27 Gomez: let me know cms with ammo

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1 MONTROYA: no lol

2 Gomez: ni full clip

3 Gomez: Is good let me know im gonna drop it off around the corner AST. Then ill drop you the
4 money at chonks house.

5 Gomez: is 556

6 Gomez: so do I go to Seminary

7 MONTROYA: yes 556

8 MONTROYA: you want side charger or regular

9 Gomez: send me a pick, of the two so I can ask him

10 MONTROYA: shared a photo of an AR-15 style handgun with a caption following (regular)

11 MONTROYA: shared a photo of an AR-15 style handgun with a side charge handle followed by a
12 text (side charger)

13 MONTROYA: Like AK

14 Gomez: that's wett, let me ask

15 Gomez: the regular one

16 Gomez: omw, seminary or chonch house ?

17 MONTROYA: ima head to chonch In 5 minutes

18 MONTROYA: im leaving my house

19 Gomez: im on my way also

20 MONTROYA: im here

21 (video call occurs between the two)

22 Gomez: can you bring me a side charge one. My neighbor wants one. He comes later and I will
23 give you the money tomorrow

24 Gomez (later in the text thread): there are 5 more that want them but later on

25 MONTROYA: I got 4 more I might have one sold already

26 Gomez: ok let me tell them to lock in

27 Gomez: do you have regular. I have someone who wants one. Can I pick it up after my hair cut

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1 MONTROYA: is good im gonna be home in a couple hours

2 Gomez: that way I can show it to them. But this one does want it. So when he gets out of work at
3 530, ill take you the money for both

4 MONTROYA: sends a photo of a map from Sebastopol to 664 Tyler Street in Oakland, CA

5 **B. Investigation of MONTROYA**

6 18. The conversation continues over several weeks, during which Gomez confirms his
7 address.

8 19. On October 2, 2021, Inv. Kleinschmidt authored an Alameda County search warrant for
9 the production of records from MONTROYA's Instagram account, "HAZELPEWPEW." The Honorable
10 Judge Delia Trevino signed the search warrant and it was subsequently submitted it to Facebook via
11 their online Law Enforcement portal. On October 20, 2021, the data download for MONTROYA's
12 Instagram account was received. On or about October 25, 2021, Inv. Kleinschmidt began reviewing the
13 data contained in the download. The account name used for the Instagram account "HAZELPEWPEW"
14 was "Roy Montoya Avila" (MONTROYA). The account was registered to phone number (510) 314-
15 3653.

16 20. Law enforcement conducted a closed source search of a law enforcement data base for
17 the above phone number. The phone number returned as used by Roy MONTROYA with a date of birth
18 of 08/10/1995. Law enforcement conducted a search via a Calphoto for Roy MONTROYA with a date of
19 birth as 08/10/1995. The Calphoto search returned with a match to Roy MONTROYA at 1606 Seminary
20 Avenue, Oakland, CA. This address was provided by MONTROYA to Gomez in the Instagram direct
21 messaging conversation described above. Law enforcement searched the CRIMS database for Roy
22 MONTROYA Avila. The search returned with a positive match to Roy MONTROYA with the Alameda
23 County PFN of BKD090. MONTROYA's home address was listed as 1606 Seminary Avenue, Oakland,
24 CA and a DOB of 08/10/1995.

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21. During the review of MONTROYA's Instagram account, which contained content from June 2021 to September 2021, multiple conversations between MONTROYA and other Instagram accounts were reviewed. These conversations included discussions regarding the sale/purchase/manufacture of numerous firearms between MONTROYA and the users of the other Instagram accounts, to include Glock handguns, AR-15 style firearms, Draco pistols, and a "fully AK," that based on my training and experience, I know to mean a fully automatic AK-47 machinegun. The conversations also included numerous photographs sent, which depicted AK-47 and AR-15 style firearms, a 75-round drum magazine for an AK-47, an M-16 style rifle with an affixed grenade launcher, and multiple other firearms, receivers, and magazines. The following are several photographs of firearms, receivers, and magazines that MONTROYA sent to other individuals:



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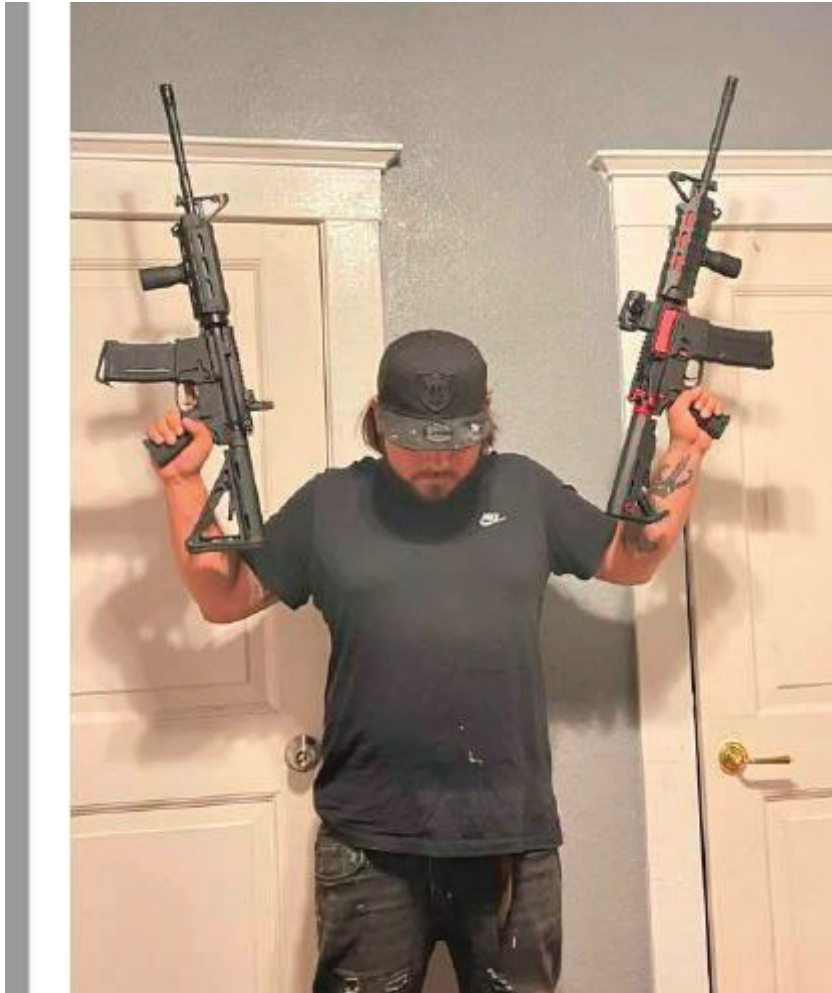


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C. Recent Review of MONTOYA's Instagram

22. On February 4, 2022, Inv. Kleinschmidt authored an Alameda County search warrant for the production of records from MONTOYA's Instagram account. The Honorable Judge Rhonda Burgess signed the warrant and it was subsequently submitted it to Facebook via their online Law Enforcement portal. On March 2, 2022, the data download for MONTOYA's Instagram account, pursuant to the Alameda County search warrant, was received. On or about March 16, 2022, I began to review the data download for the Instagram account.

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23. I reviewed a group message on December 31, 2021, where MONTROYA sent the following photograph of himself, holding an AK-47 with a folding stock and a high-capacity drum magazine:



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2 24. I reviewed an Instagram message between MONTOYA and an Instagram user by the
3 name of "omaarz71" that occurred from September 2021 through January 2022. During the
4 conversation, the user asks MONTOYA if he had any "sticks" available for a .40, which I knew to mean
5 an extended magazine for a .40 caliber handgun. MONTOYA replied by sending two photographs of
6 privately manufactured firearms (PMF), specifically AR-15 style pistols and advised that he "made 5
7 today," "Just sold 2," "I got to make 7 more tho," and "1,000 cad uno." The user replied. "If you take
8 900 I'll buy all the ones you make. Need to get 40 of them by 3 weeks," "I started getting big orders bro
9 after that one it's 60+," and "Yea you want to sell those right now or want to wait till you finish the
10 other 7 and I'll cash you out for all 10." Later in the conversation, MONTOYA says "I brought it from
11 over there." The user asks, "In pieces or you drilled everything out there." MONTOYA replies,
12 "Wrapped in plastic," "And tape," and "I put it behind the trim." The user replies "Good thing you
13 didn't get revision." MONTOYA advises "I did," "En Guadalajara," and "They didn't find it."
14 MONTOYA then sends the following photograph:



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1 Following the photograph, MONTOYA states, “Someone offered me 80k I didn’t take it” and
2 “For it.” The user asks “Pesos ?” and “4gs.” MONTOYA replies “Yup.”

3 25. I reviewed a message thread between MONTOYA and Gomez from August 2021
4 through February 2022. The two have numerous discussions regarding the sale/purchase/manufacture of
5 firearms, including fully automatic firearms. In December 2021, MONTOYA sent a video to Gomez,
6 showing a hidden compartment inside of a vehicle that has numerous unknown items wrapped in a foil
7 material. The following photograph is a screenshot from the video, depicting some of the packaged and
8 hidden items in the compartment:



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1 26. I reviewed a message thread between MONTOYA and an Instagram user by the name of
2 “fredo3500” from August 2021 through January 2022. The two discuss transporting firearms into
3 Mexico. The user instructs MONTOYA on how to properly hide contraband without being detected and
4 provides MONTOYA with a GPS location to a border crossing to utilize. The user advises that he hides
5 half of the “glocks” in lawn chairs, barrels in toothpaste, slides in between clothes, springs in “my girls
6 makeup,” and clips under the seat. The user asks MONTOYA what he is taking at which time
7 MONTOYA says, “Just my 40,” “And ammo,” and “Ima vacuum seal everything and stash it in the gas
8 tank.” MONTOYA had also advised the user earlier in the thread that he wants to take his “ARs” over
9 there.

10 27. I reviewed a message thread between MONTOYA and multiple other Instagram users
11 from August 2021 through February 2022. Throughout the thread, MONTOYA and the other users send
12 multiple photographs of firearms and messages discussing prices for the firearms.

13 28. I reviewed a message thread between MONTOYA and an Instagram user by the name
14 “oddfast” from January 2022 through February 2022. The user inquires about the price of a Glock and
15 MONTOYA advises the user of prices.

16 29. I reviewed a message thread between MONTOYA and an Instagram user by the name of
17 “fukdafedz100” from August 2021 through January 2022. Throughout the thread, MONTOYA sends
18 multiple firearms and prices that he has available. On or about January 17, 2022, the user asks
19 MONTOYA if he is still in Mexico. MONTOYA states that he is still in Mexico and will be returning
20 home in approximately two months. The user advises MONTOYA that he is trying to sell his “AR” and
21 asks if he knows who needs it. MONTOYA advises “I’ll ask.”

22 30. I reviewed a message thread between MONTOYA and an Instagram user by the name of
23 “tomasballardo1” from August 2021 through January 2022. They discuss multiple different firearms for
24 sale and the prices for the firearms. The user also inquires with MONTOYA about obtaining a fully
25 automatic firearm. In January 2022, the user sends MONTOYA a video of what appears to be a
26 Browning M1919, belt fed .30 caliber rifle. MONTOYA replies that he wants one of them. The
27 following is a screenshot of the video depicting the firearm:

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31. I reviewed a message thread between MONTTOYA and an Instagram user by the name of “jmontoya_9800” in January 2022 (mostly in Spanish¹). The user sends a photograph that was unable to be captured in the download and tells MONTTOYA that all that is missing is the switch.² MONTTOYA

¹ The conversations were translated by a Spanish speaking agent familiar with slang terminology and are not verbatim, but reflect the agent’s best understanding of the conversations.

² I know the term “switch” to be in reference to machine gun conversion devices, which are specifically used to convert a semi-automatic Glock type pistol to a firearm that fires automatically, a machine gun, as defined further below. I know from training, experience, and consultation with other law enforcement officers that Glock manufactures certain models of machinegun pistols, however Glock does not manufacture machine gun conversion devices for sale to the general public.

According to the Gun Control Act of 1968 (GCA), 18 U.S.C § 921(a)(23) defines the term “machinegun” as the following: “has the meaning given such term in section 5845(b) of the National Firearms Act (26 U.S.C 5845(b)).” The National Firearms Act (NFA), 26 U.S.C § 5845(a), defines the term “firearm” to include “... (6) a machinegun:...” Also, the NFA 5845(b) defines “machinegun” as the following: “...any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any combination of parts from which a machinegun can be assembled if such parts are in possession or under the control of a person.” Consistent with the federal laws described above, machinegun conversion devices, or “Glock Switches” described in this affidavit are, by definition, PHILLIPS AFF. IN SUPPORT OF CRIMINAL COMPL.

1 replies that there is no .40 cal ammo over here. The user then instructs MONTROYA to buy the 9mm
2 barrel for him.

3 32. I reviewed a message thread between MONTROYA and an Instagram user by the name of
4 "puro.800" from August 2021 through February 2022. The two discussed the
5 sale/purchase/manufacture and prices for various firearms throughout the message. MONTROYA asked
6 the user how much a "g19" costs. The user advised, "680" and MONTROYA responded that he wanted
7 one. The user advised that MONTROYA could get one legally and "i cant." MONTROYA advised that he
8 also cannot purchase a firearm because he is under a terrorist watch list from the FBI and won't pass the
9 background check. The user later sent a video of three unknown males firing fully automatic weapons
10 into the sky. On or about September 8, 2021, MONTROYA advised the user that he is going to make "20
11 Ars soon." On or about January 20, 2022, MONTROYA sent the user an article from the Oakland Police
12 Department that described two separate incidents where a total of four individuals were all arrested for
13 multiple firearm and narcotic charges. MONTROYA later said, "We fucked they got iron man."

14 33. I reviewed a message thread between MONTROYA and multiple Instagram users from
15 August 2021 through February 2022. On or about December 20, 2021, MONTROYA said "Fuck,"
16 "That's where I'm going rn," "Loaded with weapons," followed by a GPS screenshot depicting his
17 current location near Mesa Verde, CA and travel route to the Nogales, Mexico border crossing, with an
18 arrival time of 4:45 p.m. Later in the conversation, on the same day, MONTROYA sent a photograph of a
19 gas station in Mexico, indicating he successfully crossed the border. On or about December 22, 2021,
20 MONTROYA sent the following photograph to the thread:

21
22
23
24
25
26
27 _____
machineguns.

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34. I also reviewed a message thread between MONTTOYA and an Instagram user by the name of “that__nigga__jayy” in January of 2022. The user asked MONTTOYA, “Who got glocks for sale.” MONTTOYA replied, “Cartel Jalisco.”

35. Based on this information, I obtained a federal search warrant (4-22-mj-79478 KAW) for MONTTOYA’s residence on Seminary Avenue.

D. Search Warrant Execution at MONTTOYA’s residence

36. On April 14, 2022, law enforcement executed a Federal Search Warrant at MONTTOYA’s address on Seminary Ave in Oakland, CA. The following was seized/retained for evidence during the search warrant:

- a. An AR style, privately manufactured firearm (PMF) pistol (no serial number, 5.56 caliber) with a thirty (30) round magazine, located in the top dresser drawer in MONTTOYA’s bedroom. The magazine was inserted into the magazine well and loaded with (30) rounds of live 5.56 ammunition.

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- b. An AR style, PMF, short barrel rifle/machinegun (no serial number, 5.56 caliber) with a thirty (30) round magazine, was located in an upper receiver box on the shelf in MONTOYA's closet. The magazine contained (30) rounds of live 5.56 ammunition. A sixty (60) round PMAG drum magazine was also located in the same box as the short-barreled rifle. The barrel of the rifle was measured to be approximately 12 inches long.
- c. Four (4) completed, PMF, AR style lower pistol receivers, no serial numbers, were located in a dresser drawer of a dresser that was located in MONTOYA's closet.
- d. An upper receiver with barrel for an AR-style rifle (5.56 Nato) was located leaning up against the wall in MONTOYA's closet.
- e. A plastic Glock pistol box bearing serial #BTSL331 was located on the shelf in MONTOYA's closet. It should be noted that the serial number matched the serial number of a firearm purchased by a straw purchaser previously arrested by ATF Salt Lake City.
- f. A black bag containing a high-capacity AK-47 magazine, miscellaneous tools for manufacturing firearms, and router/jig manuals was located in MONTOYA's closet.³
- g. A bag containing sixty (60) rounds of assorted ammunition was located in a dresser drawer in MONTOYA's closet.
- h. A Dremel tool & case was located on a desk in MONTOYA's bedroom.
- i. Two (2) US Passports in MONTOYA's name were located in MONTOYA's closet.
- j. A box containing twenty (20) rounds of Remington 300 Blackout ammunition was located in a dresser drawer in MONTOYA's closet.
- k. An Ipad was located on a shelf in MONTOYA's bedroom.
- l. An Iphone was located on MONTOYA's bed.

³ Router is a common tool to manufacture firearms. Jig is a piece necessary to manufacture firearms.

- 1 m. An AK-47 machinegun receiver was located in a shed in the backyard of the
2 residence.
- 3 n. A toolbox with miscellaneous tools was located in a shed in the backyard of the
4 residence.
- 5 o. A jig router was located on a wooden bench in the backyard of the residence.
- 6 p. Metal shavings were located next to a vice, on a wooden bench in the backyard of
7 the residence.⁴
- 8 q. A box of miscellaneous firearm parts was located in MONTTOYA's bedroom.
- 9 r. Multiple other items of evidence, in support of manufacturing firearms, were
10 documented during the search warrant execution, to include a drill press, a vice with
11 metal shavings around it, a bending jig, and other tools.

12 37. MONTTOYA's residence is a three-bedroom home. Everything listed above was
13 recovered from MONTTOYA's bedroom which also contained MONTTOYA's two passports, his driver's
14 license, and his birth certificate.

15 38. The items recovered from MONTTOYA's bedroom were consistent with firearms
16 manufacturing and trafficking.

17 **E. Interview of MONTTOYA**

18 39. On April 14, 2022, MONTTOYA was interviewed following the search warrant execution
19 at his residence and advised of his Miranda Rights. MONTTOYA stated that he lived at his current
20 residence since 2006, identified which bedroom was his, and stated that all of the firearms located in his
21 bedroom, were manufactured by him. MONTTOYA could not answer the question, when he was asked
22 how many firearms he has manufactured in total. MONTTOYA stated he manufactured his first firearm
23 at age 15.

24 40. Law enforcement asked MONTTOYA again how many firearms he's manufactured and
25 replied "I made a few in my back yard, that's it." MONTTOYA stated that he had purchased the parts to
26

27 ⁴ This is indicative of drilling out portions of the receiver in order to create a firearm.
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1 manufacture the firearms found in his room a couple months prior. He further indicated he used a
2 “router” and “jig” to manufacture the firearms. Law enforcement asked MONTROYA if he manufactured
3 the one rifle in his room (short barrel rifle/machine gun) and he answered affirmatively. When
4 MONTROYA was asked if he manufactured any firearms last year, he replied “I think I did.” When
5 asked approximately how many firearms MONTROYA had sold, he requested an attorney, and the
6 interview was concluded.

7 **F. ATF Federal Firearms Licensing System**

8 41. Intelligence Research Specialist (IRS) Victor Williams queried the ATF Federal
9 Licensing System to determine if MONTROYA has or has ever had a Federal Firearms License (FFL) to
10 engage in the business of manufacturing, dealing, or importing firearms. IRS Williams found no results,
11 indicating that MONTROYA did not possess an FFL.

12 **G. National Firearms Registration and Transaction Record**

13 42. Intelligence Research Specialist (IRS) Victor Williams queried the National Firearms
14 Registration and Transfer Record (NFRS) to determine if MONTROYA has or has ever had NFA
15 firearms registered or transferred in the system. IRS Williams found no results, indicating that
16 MONTROYA has not registered or transferred any NFA firearms.

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18
19 **V. REQUEST TO SEAL**

20 43. The materials now before the Court—namely, this Affidavit, reveal sensitive details of an
21 ongoing criminal investigation. Accordingly, in order to protect the integrity of that investigation, to
22 guard against the flight of fugitives, and to better ensure the safety of agents and the public, I request
23 that those materials—together with any search warrants that issue thereon—be sealed until further order
24 of the Court, with the qualification that law enforcement agencies be authorized to share these materials
25 as necessary to execute any warrants.

26 **VI. CONCLUSION**

27
28 PHILLIPS AFF. IN SUPPORT OF CRIMINAL COMPL.

/s/ *Dillon Phillips*
 DILLON PHILLIPS
 Special Agent
 Bureau of Alcohol, Tobacco, Firearms and
 Explosives

Kandis Westmore
HONORABLE KANDIS A. WESTMORE
United States Magistrate Judge